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TAGS: [MARR](#) [MCAP](#) [MOPS](#) [MASS](#) [PARM](#) [PINR](#) [PTER](#) [PREL](#) [KE](#) [UG](#) [UP](#) [SU](#)
SUBJECT: Kenya responds to Sudan tank demarche
REF: 09 STATE 122115; 09 NAIROBI 2487

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Tags: marr, mcap, mops, mass, pparm, pinr, pter, prel, ke, ug, up, su
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CLASSIFIED BY: Rachel Meyers, Deputy Political Counselor, State, POL;
reason: 1.4(a), (b), (d)

¶1. On December 15, Ambassador Ranneberger discussed the tank transfer issue with Prime Minister Odinga, who said that the GOK was committed to assisting the GOSS and that there was "intense pressure" from the GOSS to deliver the tanks. He hinted that the GOK might instead transfer the tanks to Uganda (and, he implied, from there to South Sudan). On December 16, following AF guidance, Ambassador Ranneberger reiterated to the PM that any further transfer of the tanks, via Uganda or otherwise, would violate U.S. law and could trigger sweeping sanctions against Kenya. He also noted that the likelihood of receiving a waiver for past transfers of LME to the SPLA since 2007 would be remote if the GOK proceeded with moving the tanks to Sudan. Ambassador Ranneberger also briefed Minister of Finance Uhuru Kenyatta on the issue on December 16, and Kenyatta responded that he understood the U.S. position.

¶2. xxxxxxxxxxxx, COL McNevin and DAO notetaker met with xxxxxxxxxxxx. xxxxxxxxxxxx also attended. McNevin reiterated the points made by Ambassador Ranneberger to the PM (see para 2) and noted that we are open to discussing possible future options for disposition of the tanks so that the GOK is not stuck with assets it does not need. Before the meeting, xxxxxxxxxxxx mentioned that in the GOK's view, the tanks belong to the GOSS and that his government is receiving "increasing pressure" to deliver them. He added that President Kibaki was personally very angry about this issue. During the meeting, xxxxxxxxxxxx commented that the GOK was "very confused" by our position and did not understand why they needed a waiver, since the past transfers had been undertaken in consultation with the United States and they thought we were in

agreement on the way forward towards implementation of the CPA. He added that this was causing a "major problem" between the GOK and the GOSS. xxxxxxxxxxxx asked about the significance of what appeared to him to be a major policy reversal, and questioned whether the United States is rethinking the CPA, increasingly shifting its support to Khartoum, and/or now seeking a unitary state in Sudan. xxxxxxxxxxxx asked that the United States explain directly to the GOSS/SPLA why we are blocking the tank transfer. Following that discussion, xxxxxxxxxxxx indicated the GOK would like to participate in a high-level trilateral meeting (GOK, GOSS, and USG) to reach a collective understanding of U.S. and regional partner countries' objectives with respect to implementation of the CPA.

¶13. As McNevin was departing the meeting, xxxxxxxxxxxx called him back and asked, on xxxxxxxxxxxx behalf, for a list of all DOD programs and funding for Kenya, due to xxxxxxxxxxxx later today (December 16) in preparation for an upcoming Defense Council meeting scheduled for December 21. The Defense Council is chaired by President Kibaki, and it appears likely that xxxxxxxxxxxx will use the list to underscore the importance of the U.S.-Kenya mil-mil relationship and to convince Kibaki not to transfer the tanks. In addition to Kibaki and xxxxxxxxxxxx other Defense Council members are NSIS Director Gichangi, Minister for Defense Haji, Minister for Internal Security Saitoti, Commandant of the Administration Police Mbugua, and Police Commissioner Iteere. (Note: The Defense Council is composed entirely of advisors who are close to the President and come from his Kikuyu ethnic group or closely related groups. End note.)

¶14. As directed in ref A, the demarche regarding transfer of Ukrainian-origin LME by the Government of Kenya (GOK) to the Sudan People's Liberation Army (SPLA) was originally delivered by Deputy Assistant Secretary for Defense Vicki Huddleston and Kenya-US Liaison Office Chief COL McNevin to Kenya Assistant Minister for Defense David Musila and xxxxxxxxxxxx. COL McNevin also discussed the issue further with the xxxxxxxxxxxx. In addition, the Political RA Chief met with Director of National Security and Intelligence Service (NSIS) General Gichangi on the issue on December 16. The GOK representatives assured DASD Huddleston and COL McNevin that no tanks would be delivered to the SPLA for the foreseeable future. (Note: There are 32 T-72 tanks remaining in Kenya from the shipment that arrived in Mombasa aboard the M/V Faina. End note.)

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¶15. xxxxxxxxxxxx also noted that all other transfers have been done with full disclosure to the United States, and the GOK has shared all information regarding these transfers without hesitation. He further noted that stopping this shipment will incur "big costs" and that "Salva Kir will not be happy." He went on to state that the GOK may seek waiver support from the Government of Southern Sudan (GOSS) and that the basis for the waiver would be the implementing instructions of the Comprehensive Peace Agreement (CPA), which allow other nations to support the modernization and conversion of the SPLA from a guerilla force to a small conventional civilian military that would be capable of future integration with the Sudanese national military. As noted in ref A talking points, McNevin and xxxxxxxxxxxx also briefly discussed that U.S. legislation does contain a waiver provision. xxxxxxxxxxxx McNevin held a subsequent meeting with xxxxxxxxxxxx at the Ambassador's request and noted that the likelihood of a waiver being granted by the United States would be remote if the GOK went ahead with the tank transfer.

¶16. Comment: As of 16 December, the 32 T-72 tanks remain on flatcars at Kahawa Army Barracks in Nairobi. If indeed the tanks are not going to be transported in the "foreseeable future," we would expect to see them off-loaded soon and the flatcars returned to Rift Valley Railroad service. The GOK is understandably confused, as transfer of these tanks, in their view, dove-tailed with the goals of the United States to implement the CPA by converting the SPLA from a guerrilla force to a small conventional

force capable of defending Juba (but not take Khartoum), able to integrate with a national force, and able to counterbalance the significant military capacity of Khartoum. Despite the GOK assurances, there are a number of factors that may lead to the eventual transfer of the tanks, including: the need to maintain good relations with South Sudan and keep a friendly ally on Kenya's unstable northwestern border; the substantial financial losses Kenya will incur if it does not complete the transfer; the fact that Kenya has no need to add additional tank assets to its military; and Kenya's financial and, to a lesser extent, cultural/ideological links with South Sudan.

¶7. Over the past two years, KMOD officials have shared full details of their engagement with the SPLA as we have shared details of our training program for the SPLA, including combat arms soldier training, under a May 2007 Presidential Directive. The GOK views this as a reversal of U.S. policy that has significant security, financial, and political implications for them. It is difficult to persuade the Kenyans that transferring this equipment to the SPLA violates the terms of the CPA and therefore will merit sanctions if completed when they are well aware that the United States is continuing military to military security sector reform assistance to the SPLA.

¶8. We have been pushing the GOK very hard on the civilian side to bring about reform and good governance, and have sparked mounting resistance as a result. Despite that pressure and tension, our military to military relations have been excellent and our unimpeded access has been of significant benefit to the USG in terms of counterterrorism and anti-piracy. Given the competing policy issues on the table, we welcome ideas to defuse this situation, discuss options for alternative dispositions of the tanks, and to harmonize the "apparent disconnect" between the CPA and U.S. legislation mentioned in ref A. We urge Washington to consider the GOK's request to convene a high-level dialogue with the GOK, GOSS, and other relevant stakeholders as soon as possible to foster a clear understanding of U.S. policy and develop a way forward towards CPA implementation.

Ranneberger